

Group III: Claim 8 drawn to a fourth solution comprising prostaglandin, NO donor, glutathione precursor, NaCl and KOH classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group IV: Claims 13-18 drawn to a fifth composition comprising prostaglandin, NO donor, glutathione precursor, and an organ or tissue classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group V: Claims 20-24 drawn to a method of using a perfusion solution comprising prostaglandin, NO donor, and a glutathione precursor, classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group VI: Claims 25-27 drawn to a method of making a solution comprising mixing potassium lactobionate, potassium phosphate, raffinose, adenosine, allopurinol and pentastarch, prostaglandin E1, nitroglycerin and N-acetylcysteine classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

The Examiner considers that Group I does not require the components of Groups II, III, or IV and is therefore, a distinct composition. The Examiner also considers that Groups I and V are distinct because (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. The Examiner further considers that Group VI is drawn to a method of making a solution, but the solution is not the solution of Group I, II, III or IV. In view of the restriction requirement, Applicants provisionally elect, with traverse, to proceed with Claims 1-6, 9-12 and 19.

Applicants respectfully traverse the restriction requirement. MPEP §803 states that the two criteria for a proper requirement for restriction between patentably distinct inventions are

that (1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the Examiner if restriction is not required. Applicants respectfully submit that the cold storage solutions of Claims 7-8 and 13-18 are species of the compound of independent claim 1.

As provided under MPEP §806.04(a) and 37 C.F.R. §1.141, a reasonable number of species of an invention may be specifically claimed in one application provided that the application also includes an allowable claim generic to the claimed species and all the claims to species in excess of one are written in dependent form or otherwise include all the limitations of the generic claim (Claim 1).

Applicants also respectfully submit that the Examiner has not shown that there would be a serious burden on the Examiner if a restriction was not required. As such, the restriction requirement should be withdrawn.

In response to Examiner's suggestion that a method of using the allowable solution may be rejoined upon request of appropriate claims, Applicants request that Claims 25-27 be joined with Claims 1-6, 9-12 and 19.

For the above reasons, Applicants request reconsideration of the restriction requirement and that the restriction be withdrawn. In addition, Applicants respectively request timely allowance of all pending claims.

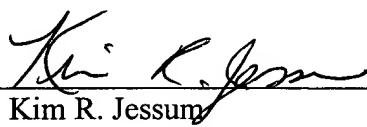
EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account

50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR
EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Date: January 2, 2004

By: 
Kim R. Jessum
Reg. No. 43,694

MORGAN, LEWIS & BOCKIUS, LLP
1701 Market Street
Philadelphia, PA 19103-2921
Telephone: (215) 963-4753
Facsimile: (877) 432-9652